# BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. AC2009-24

SHANE H. TRAVELLER 2975 N. 2050 E. Logan, UT 84341

Certified Public Accountant Certificate No. 66731

Respondent.

### **DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on <u>February 28, 2010</u>. It is so ORDERED <u>Jahuary 29, 2010</u>.

FOR THE CAZIFORNIA BOARD OF

ACCOUNTANCY

DEPARTMENT OF CONSUMER AFFAIRS

1	Edmund G. Brown Jr.		
2	Attorney General of California  MARC D. GREENBAUM  Supervising Deputy Attorney General  NICHOLAS A. SANCHEZ		
3			
4	Deputy Attorney General State Bar No. 207998		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2542 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	RFFOI	RÉ THE	
9	CALIFORNIA BOARD OF ACCOUNTANCY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:	Case No. AC2009-24	
12	SHANE H. TRAVELLER	STIPULATED SETTLEMENT AND	
13	2975 N. 2050 E. Logan, UT 84341	DISCIPLINARY ORDER	
14	Certified Public Accountant Certificate		
15	No. 66731		
16	Respondent.	· .	
17			
18	IT IS HEREBY STIPULATED AND AGE	REED by and between the parties to the above-	
19	entitled proceedings that the following matters are true:		
20	PARTIES		
21	Patti Bowers (Complainant) is the Executive Officer of the California Board of		
22	Accountancy. She brought this action solely in her official capacity and is represented in this		
23	matter by Edmund G. Brown Jr., Attorney General of the State of California, by Nicholas A.		
24	Sanchez, Deputy Attorney General.		
25	2. Respondent Shane H. Traveller (Respondent) is representing himself in this		
26	proceeding and has chosen not to exercise his right to be represented by counsel.		
27	///	one to a valuable of the manufacture	
28	///		
-		1	

3. On or about May 13, 1994, the California Board of Accountancy issued Certified Public Accountant Certificate No. 66731 to Shane H. Traveller (Respondent). The Certified Public Accountant Certificate expired on April 1, 2007, and has not been renewed.

#### **JURISDICTION**

4. Accusation No. AC2009-24 was filed before the California Board of Accountancy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 23, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC2009-24 is attached as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Accusation No. AC2009-24. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### **CULPABILITY**

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC2009-24.
- 9. Respondent agrees that his Certified Public Accountant Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

#### CONTINGENCY

- Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

#### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 66731 issued to Respondent Shane H. Traveller is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

- 1. **Actual Suspension.** Certified Public Accountant Certificate No. 66731 issued to Respondent is suspended for five (5) years. During the period of suspension the Respondent shall not engage in any activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.
- 2. **Status of License.** Respondent shall, within thirty (30) days of the effective date of the decision, bring his license current and pay all past renewal fees and the most recent delinquent fees. At all times while on probation, Respondent shall maintain a current license with the Board, including any period during which suspension or probation is tolled.
- 3. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.
- 4. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.
- 5. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.
- 6. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.
- 7. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished

in a timely manner. 1 Comply With Citations. Respondent shall comply with all final orders resulting 8. 2 from citations issued by the Board of Accountancy. 3 Violation of Probation. If Respondent violates probation in any respect, the Board, 9. 4 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry 5 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is 6 filed against Respondent during probation, the Board shall have continuing jurisdiction until the 7 matter is final, and the period of probation shall be extended until the matter is final. 8 Completion of Probation. Upon successful completion of probation, Respondent's 10. 9 license will be fully restored. 10 Cost Reimbursement. Respondent shall reimburse the Board \$5,914.78 for its 11. 11 investigation and prosecution costs. Payments shall be made in equal quarterly installments, 12 submitted with the quarterly written reports to the Board, with the final payment to be completed 13 no later than six (6) months prior to the end of the probation term. 14 /// 15 /// 16 /// 17 111 18 19 /// 20 21 /// /// 22 23 /// 111 24 25 /// 26 27 111 ACCEPTANCE 28 5

	•	
1	I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the	
. 2	stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into	
3	this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and	
4	agree to be bound by the Decision and Order of the California Board of Accountancy.	
5		
6	DATED: 11-18-09	
7		SHANE H. (TRAVELLER Respondent
8		
9.		
10		ENDORSEMENT
11	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully	
12	submitted for consideration by the California Board of Accountancy of the Department of	
13	Consumer Affairs.	
14	Dated: 12/4/2009	D
15	Dated: 12/4/2009	Respectfully Submitted,
16		EDMUND G. BROWN JR. Attorney General of California
17		MARC D. GREENBAUM Supervising Deputy Attorney General
18		
19		NICHOLAS A. SANCHEZ
20		Deputy Attorney General Attorneys for Complainant
21		
22	x + 0000000000	
23	LA2009602979 60483410_2.doc	
· 24		
25	,	
26		
27		
28		

STIPULATED SETTLEMENT (AC2009-24)

## Exhibit A

Accusation No. AC2009-24

EDMUND G. BROWN JR. Attorney General of California 2 MARC D. GREENBAUM Supervising Deputy Attorney General 3 NICHOLAS A. SANCHEZ Deputy Attorney General 4 State Bar No. 207998 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-2542 Facsimile: (213) 897-2804 6 Attorneys for Complainant 7 BEFORE THE 8 CALIFORNIA BOARD OF ACCOUNTANCY DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 In the Matter of the Accusation Against: Case No. AC2009-24 11 SHANE H. TRAVELLER 12 2975 N. 2050 E. ACCUSATION Logan, UT 84341 13 Certified Public Accountant Certificate 14 No. 66731 15 Respondent. 16 17 Complainant alleges: 18 **PARTIES** 19 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs. 20 On or about May 13, 1994, the California Board of Accountancy issued Certified 2. 21 22 Public Accountant Certificate Number 66731 to Shane H. Traveller (Respondent). The Certified Public Accountant Certificate expired on April 1, 2007, and has not been renewed. 23 JURISDICTION 24 This Accusation is brought before the California Board of Accountancy (Board), 25 3. Department of Consumer Affairs, under the authority of the following laws. All section 26 references are to the Business and Professions Code unless otherwise indicated. 27 28 ///

4. Section 5100 states, in pertinent part, that:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

- "(h) Suspension or revocation of the right to practice before any governmental body or agency.
- "(1) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation."
- 5. Section 5063 of the Code requires a licensee to report in writing to the Board within 30 days the cancellation, revocation, or suspension of a certificate or refusal to renew a certificate to practice as a certified public accountant or a public accountant, by any other state or foreign country, and the cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.
  - 6. Section 5107(a) of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.

The board shall not recover costs incurred at the administrative hearing."

7. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

///

///

Ŕ

. 18

///

#### 8. Section 141 of the Code states:

- "(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
- "(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

# CIRCUMSTANCES SUPPORTING THE IMPOSITION OF DISCIPLINE AGAINST RESPONDENT

9. From August 28, 2003 until February 28, 2005, Respondent was a member of the Board of Directors of 21st Century Inc. (21st Century). During the relevant time period, Respondent provided consulting services that facilitated 21st Century's election to be regulated as a business development company. 21st Century was, at all relevant times, a Nevada corporation with its principal place of business in Las Vegas, Nevada. As a business development company regulated under the Investment Company Act of 1940, 21st Century raised capital and made investments in various entities. At all relevant times, 21st Century's common stock was registered with the U.S. Securities and Exchange Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934, and traded on the Over-the-Counter Bulletin Board. On November 1, 2005, 21st Century filed for protection under Chapter 11 of the U.S. Bankruptcy Code and was formally dissolved by the State of Nevada on July 13, 2007. As described below, Respondent was the subject of two separate proceedings initiated by the Securities and Exchange Commission (SEC or Commission).

10

12 13

1415

16

17 18

19

20

2122

23

2425

26

27

28

#### SEC CIVIL CASE

- The first SEC action involved a civil suit filed (in April 2008) in the U.S. District Court for the District Nevada, entitled SEC v. Compass Capital Group, Inc., et al., Case No. 2:08cv-00457 (D. Nev.). The Commission's complaint alleged, among other things, that Respondent violated the antifraud provisions of the Securities laws, when he supervised the drafting of 21st Century's 2004 Form 1-E and offering circular and failed to ensure that proper disclosures were made concerning the precarious financial state of the company. In August 2004, Respondent drafted a memo describing 21st Century as a "house of cards." Respondent further noted that the company was in a "cash crisis" and that its financial statements did not clearly present its financial condition. The complaint also alleged that Respondent failed to disclose the terms of 21st Century's financing arrangement with Compass Capital and that Compass Capital was acting as an underwriter for the company's 2004 offering. The complaint further alleged that Respondent aided and abetted 21st Century's reporting and record-keeping violations when he knew in August 2004 that the CEO's brothers had loaned money for operating capital to 21st Century and did nothing to ensure the disclosure of those loans. He also agreed to approve certain investments after they had been made, in violation of the company's internal policies, and prepared false Board minutes concerning the Board's determination of the fair values of the company's assets that were supplied to 21st Century's auditors in connection with their 2003 audit of 21st Century.
- 11. On August 6, 2008, the U.S. District Court for the District Nevada entered an order permanently enjoining Respondent, by consent, from violating antifraud and reporting provisions of the securities laws, Section 17(a) of the Securities Act of 1933 (the Securities Act) and Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 (the Exchange Act) and Rules 10b-5 and 13b2-1 thereunder, and from aiding and abetting violations reporting and recordkeeping provisions of Sections 13(a) and 13(b)(2)(A) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder; and bars Respondent for a period of five years from acting as an officer or director of a public company and from participating in an offering of penny stock. Respondent was further ordered to pay a civil penalty of \$50,000.

#### SEC ADMINISTRATIVE PROCEEDING

- 12. The second SEC proceeding, an administrative proceeding captioned *In the Matter of Shane H. Traveller (CPA)* (Administrative Proceeding File No. 3-13149), was resolved on August 28, 2008, by the issuance of an Order instituting administrative proceedings pursuant to Rule 102(e) of the SEC's Rules of Practice, making findings, and imposing remedial sanctions against Respondent, in which proceeding Respondent consented to the entry of the Commission's order suspending him from appearing or practicing before the Commission as an accountant. The Order provides that Respondent may request that the Commission consider his reinstatement after 5 years from the date of the Order, that is, after August 28, 2013.
- 13. The SEC made findings summarizing the allegations of the Complaint referenced in paragraph 10, and imposed a suspension on Respondent based upon its authority to suspend from appearing or practicing before it any accountant who has been permanently enjoined by any court of competent jurisdiction, by reason of his misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder, pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice.

#### FIRST CAUSE FOR DISCIPLINE

(Suspension or Revocation by Any Governmental Agency)

14. Incorporating by reference the matters alleged in paragraphs 9 through 13 above, Respondent's suspension from practice on August 28, 2008, before the SEC constitutes the suspension of the right to practice before a governmental agency within the meaning of section 5100(h), and said suspension is substantially related to the qualifications, duties or functions of a certified public accountant, establishing cause for discipline of Respondent's Certified Public Accountant Certificate under Code Section 5100.

///

///

///

///

2.7

#### SECOND CAUSE FOR DISCIPLINE

(The Imposition of Any Discipline by the U.S. Securities and Exchange Commission)

- 15. Incorporating by reference the matters alleged in paragraphs 9 through 11 above, the Certified Public Accountant Certificate of Respondent is subject to disciplinary action, in that the court's Final Judgment entered against Respondent in Case No. 2:08-cv-00457 (D. Nev.), constitutes the imposition of penalties and sanctions on the Respondent by the SEC or its designee under federal legislation within the meaning of section 5100(l), establishing cause for discipline of Respondent's license under Code Section 5100.
- 16. Incorporating by reference the matters alleged in paragraphs 9 through 13 above, the Certified Public Accountant Certificate of Respondent is subject to disciplinary action, in that the Commission's Order in Administrative Proceeding File No. 3-13149 Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions, which suspended Respondent from practice as an accountant before the Commission, constitutes the imposition of discipline on the Respondent by the SEC within the meaning of section 5100(l), establishing cause for discipline of Respondent's license under Code Section 5100.

#### THIRD CAUSE FOR DISCIPLINE

(Reportable Events)

17. Complainant realleges paragraphs 9 through 13, and incorporates them herein by reference as if fully set forth at this point. Respondent's Certified Public Accountant Certificate is subject to disciplinary action under section 5063, in that he failed to notify the Board in writing within thirty (30) days of being suspended from appearing or practicing before the SEC commencing August 28, 2008.

///

///

///

///

LA2009602979 60422608 2.doc

#### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

- 1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 66731, issued to Shane H. Traveller.
- 2. Ordering Shane H. Traveller to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: JULY 14, 2009

PATTI BOWERS

Executive Officer

California Board of Accountancy Department of Consumer Affairs

State of California

Complainant